



UNITED STATES DEPARTMENT OF COMMERCE  
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(HO)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/061,017	04/15/98	BAKER	S 42390.P5326

LM02/0605  
HOWARD A SKAIST INTEL CORPORATION  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
SEVENTH FLOOR  
LOS ANGELES CA 90025-1026

EXAMINER  
VINCENT, D

ART UNIT  
2732

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DATE MAILED: 06/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

The reply brief filed 5/24/00 has been entered and considered.

The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Regarding the appellant's remarks pertaining to the Examiner's Official Notice that "...the term burst is notoriously well known and is used when dealing with variable bit rate (VBR) traffic" (paper no. 5, pages 4-5), A reasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution (MPEP § 2144.03). Thus, it is the Examiner's position that simply stating "Applicant specifically traverses the Examiner's characterization of the term bursts" (paper no. 6, page 3) did not amount to actually traversing the Official Notice itself and certainly was not equivalent to a demand for evidence. Furthermore, there was no mention of this argument in the Appellant's Brief.

DAVID R. VINCENT  
PATENT EXAMINER  
*David Vincent* 5/31/00